

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THE SOCIETY OF LLOYD'S
Plaintiff

CIVIL ACTION

:

v.

BORRIS COHEN,
Defendant

NO. 02-1194

ORDER

AND NOW, this 5 day of August, 2002, upon consideration of the defendant's Motion to Dismiss the Amended Complaint (Docket #8), the plaintiff's opposition thereto, and the defendant's reply in support thereof, IT IS HEREBY ORDERED that said Motion is GRANTED IN PART and DENIED IN PART. The Court holds that venue is improper in this district, but in the interest of justice the Court ORDERS that this case be TRANSFERRED to the Southern District of Florida, where venue is proper.

The Amended Complaint seeks enforcement of a foreign judgment (from England) under Pennsylvania's Uniform Foreign Money-Judgment Recognition Act, 42 Pa. Cons. Stat. Ann. § 22000 et sea., and Uniform Enforcement of Foreign Judgment Act, 42 Pa. Cons. Stat. Ann. § 4306. The amended complaint was filed in this court under diversity jurisdiction. Venue is alleged to be

proper here under the diversity venue provision, 28 U.S.C. § 1391(a) .

The defendant has filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(3), arguing that venue is improper in this district. Under Section 1391(a), venue is proper, except as otherwise provided **by** law, **(1)** in the district where the defendant resides, or **(2)** in a district where a substantial part of the events or omissions giving rise to the claim occurred, **or** a substantial part of the property that **is** the subject of the action is situated. **28** U.S.C. § 1391(a) .

The defendant has submitted an affidavit averring that he is a resident of Florida. The plaintiff has not attempted to controvert this. Prong (1) of Section 1391(a) is, therefore, not applicable. The plaintiff argues that both aspects of prong (2) apply here: a substantial part of the events or omissions giving rise to the claim occurred here, and a substantial part of the property that is the subject of the action is situated in this district.

The Third Circuit has recognized that the statutory requirement that the events or omissions supporting a claim be "substantial" favors the defendant in a venue dispute. Cottman Transmission Sys., Inc. v. Martino, 36 F.3d 291, 294 (3d Cir. 1994). Therefore, "[e]vents or omissions that might only have

some tangential connection with the dispute in litigation are not enough." Id. "In assessing whether events or omissions giving rise to the claims are substantial, it is necessary to look at the nature of the dispute." Id. at 295.

The present claim is for the recognition of a judgment entered against the defendant in England for his failure to pay reinsurance premiums in the Lloyd's of London insurance market. The plaintiff argues that a substantial part of the events giving rise to the claim occurred in Pennsylvania because the defendant sent and received correspondence related to the reinsurance issue from an address in Pennsylvania. It has been held that a "communication transmitted to or from the district in which the cause of action was filed" can satisfy the substantial events standard "given a sufficient relationship between the communication and the cause of action." Sagody Techs., Inc. v. Avant, Inc., 862 F. Supp. 1152, 1157 (S.D.N.Y. 1994) (citations omitted).

The Court does not find a sufficient relationship between the letters and the cause of action in this case. The first communication cited by the plaintiff is a letter, dated October 30, 1996, sent by the defendant from Pennsylvania to Lloyds in England. In the letter, the defendant inquired about the way the reinsurance premiums were calculated and paid. The

letter did not refuse to pay the premiums or reference the collection action against him. The other two letters relied on by the plaintiff were sent by Lloyds to the defendant in Pennsylvania. The first was in June of 1997, and it answered certain questions posed in the defendant's October 1996 letter and accepted his resignation. The second letter was in April of 1998, and it informed the defendant that judgment had been entered against him in the English High Court.

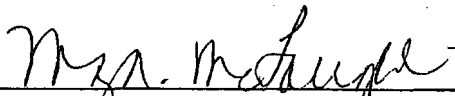
The basis of the claim against the defendant, for the recognition of a foreign money judgment, is not dependent on the content or receipt of the Pennsylvania communications. Nor is the underlying judgment, based on the failure to pay insurance premiums, closely related to these communications. There is not a sufficiently strong relationship between the communications and the cause of action for venue to lie in this district.

Nor is a "substantial part of the property" that is the subject of the action situated in this district. The plaintiff argues that this standard is met because the defendant owns personal property in Pennsylvania that would be subject to a lien, were the judgment recognized. That property, however, is not the "subject of the action."

The Court, therefore, holds that venue is improper in this district. The plaintiff requests that if the Court finds

venue improper, it transfer the case to the Southern District of Florida where venue is proper because the defendant resides there. The Court finds that it is in the interest of justice to transfer the case, and it so orders. See 28 U.S.C. § 1406(a).

BY THE COURT:


MARY A. McLAUGHLIN J.

d 9/5/02:

L. Lupen, log
M. Hebauer, log